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Attorney for Plaintiffs Oregon Laborers-Employers Trust Funds, et al.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**OREGON LABORERS-EMPLOYERS  
HEALTH & WELFARE TRUST FUND,  
OREGON LABORERS-EMPLOYERS  
PENSION TRUST FUND, OREGON &  
SOUTHERN IDAHO LABORERS-  
EMPLOYERS TRAINING TRUST FUND,  
OREGON LABORERS-EMPLOYERS  
COOPERATION & EDUCATION  
TRUST, PREVAILING WAGE LAW  
ENFORCEMENT TRUST, OREGON  
LABORERS-EMPLOYERS  
ADMINISTRATIVE FUND, LLC,  
OREGON-SOUTHWEST WASHINGTON  
FAIR CONTRACTING FOUNDATION,  
CONTRACT ADMINISTRATION FUND,  
CONSTRUCTION INDUSTRY DRUG  
FREE WORKPLACE PROGRAM  
TRUST,**

Plaintiffs,

v.

**BIG J CONSTRUCTION, INC.,** an Oregon  
business corporation,

Defendant.

Case No.: \_\_\_\_\_

COMPLAINT

Action for Fringe Benefits and Accounting  
(29 USC § 1132 and § 1145 and 29 USC §  
185(a))

1 Plaintiffs, for claim for relief, allege as follows:

2 FIRST COUNT

3 1.

4 Jurisdiction is vested in this Court over this action by the provisions of the Employee  
5 Retirement Income Security Act of 1974 (ERISA) at 29 USC § 1132 and § 1145; and § 301(a) of  
6 the Labor Management Relations Act of 1947 (LMRA) at 29 USC § 185(a).

7 2.

8 That at all times herein mentioned, the Plaintiffs were and are collective express Trusts in  
9 writing, pursuant to 29 USC § 186, known as the Oregon Laborers-Employers Health & Welfare  
10 Trust Fund (Health & Welfare Trust), the Oregon Laborers-Employers Pension Trust Fund  
11 (Pension Trust), the Oregon & Southern Idaho Laborers-Employers Training Trust Fund, the  
12 Oregon Laborers-Employers Cooperation & Education Trust, Prevailing Wage Law Enforcement  
13 Trust, Oregon Laborers-Employers Administrative Fund, LLC, Oregon-Southwest Washington  
14 Fair Contracting Foundation, the Contract Administration Fund, and the Construction Industry  
15 Drug Free Workplace Program Trust. Plaintiffs are known collectively as the Oregon Laborers-  
16 Employers Trust Funds, which Trusts administer contributions by employers for medical care,  
17 pension, hospital care, training, and related needs of employees. Plaintiffs' principal office is in  
18 Portland, Multnomah County, Oregon, and venue for all claims for relief or proceedings involving  
19 the Trust Funds is in Multnomah County, Oregon.

20 3.

21 That Defendant, Big J Construction, Inc. is an Oregon business corporation authorized  
22 and registered to do business in the State of Oregon.

23 4.

24 That during all of the times herein mentioned, Defendant was bound to make required  
25 contributions to the Trusts and did make certain payments thereto.

26 ///

1 5.

2 That in the processing of the payments and as part of the Plaintiffs' duties herein, it  
3 became necessary to review the Defendant's remittance reports in order to ascertain the  
4 correctness of the reporting. A review of certain reports to date has revealed a delinquency.

5 6.

6 Demand has been made for payment of the delinquency and there is wholly due, owing  
7 and unpaid to the Plaintiffs the amount of \$15,876.41 as of October 1, 2016, plus additional  
8 contributions due to date for contributions for amounts for post-September 2016 contributions.

9 7.

10 That in addition to the basic contributions required to be made, the applicable written  
11 Agreement between the parties and 29 USC § 1132 provide for liquidated damages, interest, and  
12 audit fees to be assessed for any delinquent contributions found to be due and owing. Defendant  
13 is indebted to Plaintiffs for liquidated damages, interest, and audit fees. These liquidated  
14 damages and interest amounts are due for late payments in the amount of \$5,204.99 plus  
15 amounts for unpaid contributions to date. These amounts are calculated per the statute and Trust  
16 Agreement as 12% *per annum* interest and 12% *per annum* liquidated damages for each late  
17 payment.

18 8.

19 That the indicated Agreements and 29 USC § 1132 provide for a reasonable sum to be  
20 awarded Plaintiffs as attorney's fees for the prosecution of this action against Defendant.  
21 Plaintiffs request a reasonable sum be awarded to Plaintiffs as attorney's fees.

## 22 SECOND COUNT

23 9.

24 Plaintiffs reallege Paragraphs 1, 2, 3, 4, 7 and 8 of their First Count.

25 10.

26 That during all of the times herein mentioned, Defendant was bound to make required

1 contributions to the Trusts and did make certain payments. That Defendant, on and from June 1,  
 2 2016 through the present date, had in its employ, employees for whom contributions to the Trust  
 3 Funds were to be made.

4 11.

5 Defendant has failed to make the contributions required by the Labor Agreement for its  
 6 employees employed during the term of the Agreement. Defendant has failed to report to  
 7 Plaintiffs the number of employees and the amount of required contributions. The amount of all  
 8 contributions owed by Defendant to Plaintiffs for post-September, 2016 months is unknown to  
 9 Plaintiffs and cannot be ascertained without a complete accounting, which is long and  
 10 complicated.

11 12.

12 Plaintiffs request that an accounting by Defendant be ordered for the period from  
 13 June 1, 2016 through the present date, for any and all contributions due from Defendant to  
 14 Plaintiffs by virtue of the Labor Agreement. After a complete account has been made, Plaintiffs  
 15 request a Decree be entered against Defendant for any amount due, with interest thereon,  
 16 together with liquidated damages and reasonable attorney's fees as provided for in the Labor  
 17 Agreement, Trust Agreement and appropriate law.

18 WHEREFORE, Plaintiffs pray as follows:

19 COUNT ONE

- 20 1. \$15,876.41, plus additional contributions to date;
- 21 2. Interest on the above sum from June 1, 2016, until paid;
- 22 3. Liquidated damages and an audit fee and additional interest on all late  
 23 contributions paid and those remaining unpaid;
- 24 4. The amount of \$5,204.99 on items number 2 and 3 above plus additional interest  
 25 on liquidated damages on post-September 2016 amounts owed;
- 26 5. Reasonable attorney's fees;

COUNT TWO

1. A Decree compelling Defendant to make a complete accounting to Plaintiffs of all contributions due from Defendant to Plaintiffs from June 1, 2016, to the present;
2. After a complete accounting has been made, entry of Judgment against Defendant for any amounts due to Plaintiffs for Trust contributions;
3. For interest on any contributions from their due date, together with attorney's fees, liquidated damages, and Plaintiffs' costs and disbursements;
4. For such other relief as may seem just and equitable in the premises.

DATED this 4th day of January, 2017.

COLETT LAW GROUP, LLP

s/ Charles D. Colett

**CHARLES D. COLETT, OSB #791916**  
**ATTORNEY FOR PLAINTIFFS**

TRIAL ATTORNEY:

s/ Charles D. Colett

CHARLES D. COLETT, OSB #791916

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